THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.11312 OF 2006

DATED: 09-04-2007

BETWEEN

Kandi Radhamma,
W/o. Malla Reddy,
R/o. Chennaraopet Village
& Mandal, Warangal District,
and others.

...PETITIONERS

AND

Superintendent of Police,
Warangal District, Warangal,
and another.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondents in not completing the investigation and submitting the report to the Court as required under Sections 157 and 158 of the Code of Criminal Procedure, 1973 (for short 'the Code'), against FIR.No.1400 dated 30.12.2005 on the file of the second respondent as illegal and arbitrary.

2. Learned counsel for the petitioners submits that the complaint of the petitioners has been received by the second respondent and acknowledgment has been issued with regard to registration of FIR.No.1400 vide receipt dated 30.12.2005 but no further action has been taken pursuant to the registration of the crime.

3. Counter has been filed stating that the petitioners lodged a

representation dated 30.12.2005 alleging that one Mr. Donthi Kattaiah, Kandula Sambaiah and Gandla Mallaiah and other trespassed into her patta land and damaged the plantations, but no FIR.No.1400 dated 30.12.2005 has been registered as averred by the petitioner.

It is stated that as the FIR was not at all registered the question of investigating the same does not arise. It is stated that, in fact, the said complaint was not at all registered but an entry was made in the General Diary on 30.12.2005, therefore, basing on the printed letters FIR in the said receipt it cannot be assumed and presumed that FIR has been registered.

4. In view of the categorical denial that FIR has not been registered, I am of the opinion that the question of conducting or completing the investigation does not arise. However, if the petitioner is aggrieved by the said action of the respondents in not registering the FIR, it is always open to him to file a private complaint under Section 200 read with 190 of the Code for taking appropriate action. Without taking recourse to the remedy available under the Code the petitioner is not entitled to any relief in the writ petition.

The writ petition is accordingly dismissed with a liberty to the petitioners to take appropriate action in accordance with law.

There shall be no order as to costs.

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V. ESWARAIAH, J

April 9, 2007
DSK